REMARKS

In the Office Action, the Examiner objected to the specification because the abstract exceeded 150 words. The abstract has been amended and Applicants respectfully request that the Examiner's objection to the specification be withdrawn.

Claims 1-25 are pending in the present application. In the Office Action, claims 1, 3-5, 9-12, 15, 17-18, 20-22, and 25 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Ganesan, et al (U.S. Patent No. 5,978,481). Claims 2 and 16 were rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Ganesan in view of Fleming, et al (U.S. Patent No. 6,212,360). Claims 6 and 19 were rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Ganesan in view of Weidner, et al (U.S. Patent No. 5,987,572). Claims 7-8 and 23-24 were rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Ganesan in view of Bestock (U.S. Patent No. 5,363,449). Claims 13-14 were rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Ganesan in view of Albrecht, et al (U.S. Patent No. 6,510,521). The Examiner's rejections are respectfully traversed.

Independent claim 1 sets forth, among other things, a privileged mode driver for decrypting encrypted data, which includes one or more control codes. The decrypted control codes are provided to a physical layer hardware unit, which uses the decrypted control codes to configure assigned transmission parameters of the physical layer hardware unit. Independent claim 15 sets forth, among other things, decrypting encrypted data in a privileged processing mode, extracting control codes from the decrypted data in the privileged processing mode, and

transmitting an upstream signal over a communications channel based on transmission assignments defined by the control codes.

Ganesan describes a redirector 402 that may be operated in a no-encrypt mode or an encrypt mode. When the redirector 402 is operating in the encrypted mode, the redirector 402 directs all data that it receives from the communication application 300 or the mobidem 18 to a stream DES engine 404. The stream DES engine 404 decrypts data received from the mobidem 18 and encrypts data from the communication application 300. See Ganesan, col. 6, ll. 1-8. Thus, Ganesan teaches that encrypted data is provided to the mobidem 18 for transmission and decrypted data is provided to the communication application 300. However, Ganesan fails to teach or suggest providing decrypted control codes to a physical layer hardware unit, which uses the decrypted control codes to configure assigned transmission parameters of the physical layer hardware unit, as set forth in independent claim 1. Ganesan also fails to teach or suggest extracting control codes from the decrypted data in the privileged processing mode and transmitting an upstream signal over a communications channel based on transmission assignments defined by the control codes, as set forth in independent claim 15.

For at least the aforementioned reasons, Applicants respectfully submit that the present invention is not anticipated by Ganesan and request that the Examiner's rejections of claims 1, 3-5, 9-12, 15, 17-18, 20-22, and 25 under 35 U.S.C. 102(b) be withdrawn.

Moreover, it is respectfully submitted that the pending claims are not obvious in view of the prior art of record. To establish a *prima facie* case of obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1974). As discussed above, the primary reference fails to teach or suggest providing decrypted control codes to a physical layer hardware unit, as set forth

in independent claim 1. The primary reference also fails to teach or suggest extracting control codes from the decrypted data in the privileged processing mode and transmitting an upstream signal over a communications channel based on transmission assignments defined by the control codes, as set forth in independent claim 15. The Examiner relies upon Weidner to teach passing pointers indicating locations of encrypted data in memory, Bestock to teach extracting user data from decrypted data, and Albrecht to teach a BIOS memory. However, none of the secondary references remedy the fundamental deficiencies of the primary reference.
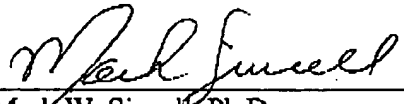
The prior art of record also fails to provide any suggestion or motivation to modify the prior art to arrive at Applicants' claimed invention. To the contrary, the primary reference teaches away from the present invention. In particular, Ganesan teaches that that *encrypted* data is provided to the mobidem 18, which teaches away from providing *decrypted* data to the physical layer unit. It is by now well established that teaching away by the prior art constitutes *prima facie* evidence that the claimed invention is not obvious. *See, inter alia, In re Fine*, 5 U.S.P.Q.2d (BNA) 1596, 1599 (Fed. Cir. 1988); *In re Nielson*, 2 U.S.P.Q.2d (BNA) 1525, 1528 (Fed. Cir. 1987); *In re Hedges*, 228 U.S.P.Q. (BNA) 685, 687 (Fed. Cir. 1986).

For at least the aforementioned reasons, Applicants respectfully submit that the present invention is not obvious over the prior art of record. Applicants respectfully request that the Examiner's rejections of claims 2, 6-8, 13-14, 16, 19, and 23-24 under 35 U.S.C. 103(a) be withdrawn.

For the aforementioned reasons, it is respectfully submitted that all claims pending in the present application are in condition for allowance. The Examiner is invited to contact the undersigned at (713) 934-4052 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

Date: 1/24/05

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